IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1321 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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BHAGWANDAS POHUMAL LAKHWANI

Versus

CHANDRAPRAKASH KISHANCHAND DHARMANI

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Appearance:

MR KV SHELAT for the Petitioner.

MR AJAY R MEHTA for Respondent Nos. 1-3

NOTICE SERVED BY DS for Respondent No. 1-3

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/02/2004

ORAL JUDGEMENT

This Civil Revision Application is filed by the petitioner-original plaintiff, by which the order passed by the Joint District Judge, Panchmahals at Godhra in Miscellaneous Civil Appeal No.133 of 1998, is challenged.

By the impugned order, the appellate court has partly allowed the Miscellaneous Civil Appeal filed by the original defendants of the suit. The appellate court has remanded the matter to the learned trial Judge for a fresh decision on applications Exhibits 85 and 87. The aforesaid order, in my view, is not required to be interfered with in a revision filed under Section 115 of the Code of Civil Procedure. It cannot be said that the appellate Judge has committed any jurisdictional error in passing the impugned order. In view of the decision of the Apex Court in The Managing Director, Hindustan Aeronautics Ltd. v. Ajit Prasad Tarway, AIR 1973 SC 76, this revision is not required to be entertained. Even otherwise, the order in question is interlocutory in nature. Hence, the revision application is dismissed. Rule is discharged. No costs.

4th February, 2004 ( P.B. Majmudar, J. )

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(apj)